



**CALIFORNIA STATE
PUBLIC WORKS BOARD**

EDMUND G. BROWN JR. • GOVERNOR

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STATE PUBLIC WORKS BOARD

August 6, 2018

PROPOSED MINUTES

PRESENT:

Ms. Jacqueline Wong-Hernandez, Chief Deputy Director, Department of Finance
Mr. Daniel Kim, Director, Department of General Services
Ms. Ellen Greenberg, Deputy Director, Department of Transportation
Mr. Tom Yowell, Chief Administrative Officer, State Controller
Mr. Blake Fowler, Director of Public Finance, State Treasurer
Assemblymember Jim Frazier
Assemblymember Ash Kalra

CALL TO ORDER AND ROLL CALL:

Ms. Jacqueline Wong-Hernandez, Chairperson of the Board, called the meeting to order at 10:00 a.m. Ms. Kathryn Lee, serving as Secretary to the Board, called the roll. A quorum was established.

BOND ITEMS:

The first order of business was to consider two Bond Items.

- **Bond Item 1:** Ms. Lukenbill, Deputy Director of the Board, indicated to the Board that if approved, the requested action would adopt a resolution authorizing actions to be taken to provide for interim financing, authorize the sale of lease revenue bonds, and other related actions for the construction of a new courthouse in the City of Redding, Shasta County, for the Judicial County. The project would also consolidate court operations from three undersized and obsolete court facilities in Shasta County.

Staff recommended adoption of the resolution.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Mr. Yowell and seconded by Mr. Kim to adopt the resolution for the bond item. The motion was passed unanimously through a 5-0 roll call vote.

(Ms. Wong-Hernandez, Mr. Yowell, Mr. Kim, Ms. Greenberg, and Mr. Fowler all voting aye).

- **Bond Item 2:** Ms. Lukenbill indicated to the Board that if approved, the requested action would adopt a resolution authorizing actions to be taken to provide for interim financing, authorize the sale of lease revenue bonds, and other related actions for the construction of a new courthouse in the City of Sonora, Tuolumne County, for the Judicial Council. The new courthouse would also replace three existing deficient court facilities and create operational efficiencies through consolidation of current court services for the county.

Staff recommended adoption of the resolution.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board or from the public. There were none.

A motion was made by Ms. Greenberg and seconded by Mr. Fowler to approve and adopt the resolution for the bond item. The motion passed unanimously through a 5-0 roll call vote. (Ms. Wong-Hernandez, Mr. Yowell, Mr. Kim, Ms. Greenberg, and Mr. Fowler all voting aye).

MINUTES:

The next order of business was to consider approving the minutes from the July 16th Board meeting.

Ms. Lukenbill reported that staff had prepared and reviewed the minutes from the July 16th Board meeting, and also recommended approval.

A motion was made by Ms. Greenberg and seconded by Mr. Kim to approve the minutes. The minutes were approved by a 3-0 oral vote (Ms. Wong-Hernandez, Mr. Kim and Ms. Greenberg all voting aye).

CONSENT ITEMS:

The next order of business was consider two Consent Items. Ms. Lukenbill presented the following:

- Consent Item 1: Consider authorizing an acquisition and the execution of a Property Acquisition Agreement and other such documents as may be required to approve the acquisition of an approximately 3.5 acre site for construction of a replacement field office in the city of Reedley, Fresno County, for the Department of Motor Vehicles.
- Consent Item 2: Consider approving preliminary plans and recognizing an anticipated deficit for the State Printing Plant Demolition project, in Sacramento County, for the Department of General Services.

Consent Item 2 required a 20-day notice to the Joint Legislative Budget Committees and the fiscal committees in each house, and the review period for these actions expired without adverse comment.

Staff recommended approval of the Consent Calendar consisting of Consent Items 1 and 2.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board or from the public. There were none.

A motion was made by Mr. Kim and seconded by Ms. Greenberg to approve the Consent Calendar. The motion passed unanimously through a 3-0 oral vote. (Ms. Wong-Hernandez, Mr. Kim and Ms. Greenberg all voting aye).

ACTION ITEMS:

The next order of business was to hear three Action Items.

- Action Item 1: Ms. Lukenbill indicated to the Board that if approved, the requested action would authorize site selection of 2 parcels in Fresno County for the High Speed Train Project.

Staff recommended the Board authorize site selection of Parcels in Fresno County.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Mr. Kim and seconded by Ms. Greenberg to authorize the site selection of two parcels in Fresno County. The motion was passed unanimously through a 3-0 roll call vote. (Ms. Wong-Hernandez, Ms. Greenberg and Mr. Kim all voting aye).

- Action Item 2: Adopt two amended Resolutions of Necessity authorizing the use of eminent domain to acquire properties in Kings County.

Ms. Lukenbill introduced the item, and Ephraim Egan, counsel to the Board on eminent domain issues, presented the amended Resolutions of Necessity.

First, Mr. Egan presented the unopposed amended Resolution of Necessity for the Richards Family Land property. Mr. Egan stated that it was counsel's opinion that for the unopposed amended Resolution of Necessity, prima facie evidence for the factors set forth in Code of Civil Procedure section 1245.230 were present such that the Board could adopt the amended Resolution of Necessity.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board, property owners, or from the public. There were none.

A motion was made by Ms. Greenberg and seconded by Mr. Kim to adopt the amended Resolution of Necessity for the Richard's Family Land property. The motion was passed unanimously through a 3-0 roll call vote. (Ms. Wong-Hernandez, Ms. Greenberg and Mr. Kim all voting aye).

Ms. Lukenbill introduced the item, and Mr. Egan presented the amended Resolution of Necessity for the River Ranch Farms property, which received a letter of objection, and discussed the objections presented in the letter.

Mr. Egan stated that it was counsel's opinion that for the opposed amended Resolution of Necessity for the River Ranch Farms property, prima facie evidence for the factors set forth in Code of Civil Procedure section 1245.230 were present such that the Board could adopt the amended Resolution of Necessity.

Ms. Wong-Hernandez asked for comments from the property owner. Owner and owner's counsel were not present. Ms. Wong-Hernandez then asked the Board if they had any questions.

Mr. Kim asked what proportion of the entire River Ranch property the reduction in take represented.

Ms. Kendall Bonebrake, counsel for the High Speed Rail Authority (Authority), deferred to Mr. Donald Odell, acting director or Real Property for the Authority, regarding the proportion of the

overall property the take represented. Ms. Bonebrake explained that the parcel take needed was reduced when it was determined that an overpass was no longer required at this project location.

Mr. Donald Odell, distributed a picture of the subject property, which showed the Board the reduction in property take resulting from the design change.

Ms. Bonebrake addressed Ms. Wong-Hernandez, telling her that Kristiyan Assouri, Chief of Third Parties and Real Property for the Authority, and Mr. Joe Hedges, Chief Operating Officer for the Authority, were in attendance and were available to provide additional information regarding the process changes that have been put in place at the Authority to address the issue of Amended Resolutions.

Ms. Wong-Hernandez requested that the appropriate representative from the Authority explain to the Board where they were in negotiations on the River Ranch property from the time the original Resolution of Necessity was adopted to the present, and how the changes were communicated to the property owners.

Mr. Odell described the eminent domain process in general, and assured the Board that communications with property owners and their counsel continue throughout that process. He also stated that once a Resolution of Necessity has been adopted on a property, the pending litigation creates a platform for reasonable negotiations to move forward, and stated that is the case with River Ranch.

Ms. Wong-Hernandez asked when the original Resolution of Necessity was adopted, and where the Authority was in negotiations with the property owners at the time they were told there was a design change that would affect the property take.

Ms. Lukenbill responded that the Resolution of Necessity was adopted August 12, 2016.

Mr. Odell responded that the Authority was proceeding with litigation at the time the Resolution was adopted. He also reminded the Board that the project is being designed using the design-build procurement method, and that part of the discussion that goes into the final design is the impact on property owners. He further noted that it takes continued discussions with the property owners to determine the full impact of a design change on specific properties. Mr. Odell also stated that if the Amended Resolution is approved, the negotiations will continue, but will be modified according to the amended take.

Assemblymember Frazier asked if the Authority considered the regional impact of the River Ranch design change, and how concerns of local jurisdictions and neighborhoods are being acknowledged.

Mr. Odell explained to the Board that the Authority frequently seeks regional input on the design decisions being made.

Mr. Frazier expressed that going further into these processes, he would like to see some kind of letter from the local jurisdictions involved indicating concurrence with the impacts of the design.

Mr. Kim asked if there is a reappraisal of the take area when the size or scope of the property needed for the project is reduced.

Ms. Kendall Bonebrake, counsel for the Authority, confirmed that a new appraisal is conducted to revalue the new take area.

Ms. Assouri asked to address the Board. Ms. Assouri stated that when the Authority reduces property takes, it reduces the impact to the project and environment, and minimizes the number of excess parcels that are acquired. She stated that the Authority also needs to continue to work to minimize, to the extent possible, the number of times that a property owner is contacted by the Authority with respect to an eminent domain action.

Assemblymember Frazier asked what savings were associated with the design changes.

Ms. Assouri responded that the Authority always considers the costs involved in a design change, and that most of the cost savings are realized in construction.

Ms. Greenberg requested that at future meetings the Authority provide clearer visual information to the Board depicting the impact of the design changes.

Ms. Wong-Hernandez asked if there were any questions from the Board, property owners or the public. There were none.

Staff recommended adoption of the amended Resolution of Necessity, authorizing the use of eminent domain for the River Ranch Farms property.

A motion was made by Mr. Kim and seconded by Ms. Greenberg to adopt the Resolution of Necessity for the River Ranch Farms property. The motion passed unanimously through a 3-0 roll call vote. (Ms. Wong-Hernandez, Ms. Greenberg, and Mr. Kim all voting aye).

- Action Item 3: Adopt three Resolutions of Necessity authorizing the use of eminent domain to acquire properties in Fresno, Kings, and Kern Counties:

Ms. Lukenbill introduced the item, and Mr. Egan presented the Resolutions of Necessity.

First, Mr. Egan presented the unopposed Resolution of Necessity for the Semitropic Water Storage property. Mr. Egan stated that it was counsel's opinion that for the unopposed Resolution of Necessity, prima facie evidence for the factors set forth in Code of Civil Procedure section 1245.230 were present such that the Board could adopt the Resolution of Necessity.

Staff recommended adoption of the Resolution of Necessity for the Semitropic Water Storage property, authorizing the use of eminent domain.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board, property owners, or the public. There were none.

A motion was made by Ms. Greenberg and seconded by Mr. Kim to adopt the Resolution of Necessity for the Semitropic Water Storage property. The motion passed unanimously through a 3-0 roll call vote (Ms. Wong-Hernandez, Ms. Greenberg, and Mr. Kim all voting aye).

Mr. Egan then presented the Resolution of Necessity for the Fresno Metropolitan Flood Control District (District) property, for which Board staff received a letter of objection, and discussed the objection raised in the letter.

Mr. Egan stated that the Resolution of Necessity, the objection letter, and High Speed Rail Authority's response to the objections had been reviewed and it is counsel's opinion that there is prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 were present such that the Board could adopt the Resolution of Necessity.

Ms. Wong-Hernandez asked Authority staff to provide additional information related to the objections made by counsel for the District property. Representatives and counsel for the District were not present.

Ms. Bonebrake and Mr. Odell addressed the Board, and Mr. Odell distributed a map of the subject property. He explained that the issue, which is still under negotiation, is the potential reduction in carrying capacity of the District's retention basin. He further explained that he would be meeting with the District the week of August 6th to discuss whether the issue could be remedied by utilizing space on an excess parcel nearby.

Mr. Kim asked whether historically the basin has maintained a certain carrying capacity.

Mr. Odell replied that carrying capacity solutions are part of the ongoing discussions with the District.

Assemblymember Frazier emphasized that the Authority needs to continue to consider the regional impacts of decisions that are made in property negotiations, and those impacts need to be identified early in the process and in a cost effective manner.

Mr. Odell responded that the Authority is very sensitive to the impact of project decisions on communities and individuals. He further added that the Authority is very conscious of overall project costs when making these decisions.

Ms. Wong-Hernandez asked if there were any questions or comments from the Board, property owners or the public. There were none.

A motion was made by Mr. Kim and seconded by Ms. Greenberg to adopt the Resolution of Necessity for Fresno Metropolitan Flood Control District Property. The motion passed unanimously through a 3-0 roll call vote (Ms. Wong-Hernandez, Ms. Greenberg, and Mr. Kim all voting aye).

Mr. Egan then presented the Resolution of Necessity for the Kings Waste and Recycling property, for which Board staff had received a letter of objection.

Mr. Egan stated that the Resolution of Necessity, the objection letter, and the High Speed Rail Authority's response to the objections had been reviewed and it is counsel's opinion that there is prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 were present such that the Board could adopt the Resolution of Necessity.

Ms. Wong-Hernandez asked for comments from counsel for Kings Waste and Recycling or High Speed Rail Authority to address the concerns raised by Kings Waste and Recycling. Representatives and counsel for the District were not present.

Mr. Kim asked if the Authority had any rule regarding the valuation of easements.

Ms. Bonebrake responded that it depended on the type of easement, and that the appraisers are well versed in how to value those types of property interests.

Ms. Greenberg asked whether the appraisal considers if an easement acquisition has a disproportionate impact on business operations.

Both Ms. Bonebrake and Mr. Egan responded that such impact is considered, and provided further explanation.

Assemblymember Ash Kalra noted the responsibility involved in an eminent domain action, and commended all parties on their hard work and attention to detail in these negotiations for this important project.

Ms. Wong-Hernandez asked if there were any comments or questions from the Board, property owners, or the public. There were none.

A motion was made by Mr. Kim and seconded by Ms. Greenberg to adopt the Resolution of Necessity for the Kings Waste and Recycling property. The motion passed unanimously through a 3-0 roll call vote (Ms. Wong-Hernandez, Ms. Greenberg, and Mr. Kim all voting aye).

Ms. Wong-Hernandez invited Mr. Joe Hedges, Chief Operating Officer for the Authority, to address the Board.

Mr. Hedges noted that the Authority has developed a new project management plan to address many of the concerns expressed by the Board and others. He also noted that the Authority strives to consider the evolution of the project and to apply lessons learned. In particular, he expressed the need to better define the alignment and have all contracts in place before the right-of-way is acquired to avoid project changes. Mr. Hedges further stated that the Authority is looking at the project as a whole to determine where efficiencies can be gained.

Ms. Assouri added that the Authority also has to be more thoughtful of parcels needed during the environmental clearance process, and needs to consider the number of parcels needed for utility relocations.

OTHER BUSINESS:

Ms. Lukenbill requested the Board approve an amendment to an interagency agreement between the Board and Caltrans for legal services related to right-of-way acquisition and eminent domain issues, and to direct the Board's Director or any Deputy Director to execute the amendment, which would be extended through June 30, 2021.

Ms. Wong-Hernandez asked if there were any comments or questions from the Board or the public. There were none.

A motion was made by Ms. Greenberg and seconded by Mr. Kim to approve staff recommendation. The motion passed unanimously through a 3-0 oral vote. (Ms. Wong-Hernandez, Ms. Greenberg, and Mr. Kim all voting aye).

REPORTABLES

Ms. Lukenbill then presented the reportable items, and told the Board that she would be happy to answer any questions. The Board had none.

NEXT MEETING:

Ms. Wong-Hernandez stated that the next Board meeting is scheduled for Friday, September 14, 2018 at 10 a.m. in Room 113 at the State Capitol.

Ms. Wong-Hernandez asked if there were any additional comments or questions from the public. There were none.

The meeting was adjourned at 11:23 a.m.